

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHANIE M. REVERON,

Plaintiff,

-v-

SPREADSHIRT, INC. *et al.*,

Defendants.
-----X

24 Civ. 4093 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

Plaintiff Stephanie M. Reveron brings this action asserting claims for trademark infringement, unfair competition, and unjust enrichment. Defendant Walmart-Stores, Inc. moved to dismiss the Complaint on June 20, 2024. Dkt. 7. Instead of filing an opposition to that motion, Plaintiff sought leave to amend her Complaint and attached a proposed Amended Complaint to her request. Dkt. 30. On November 19, 2024, the Honorable Robyn F. Tarnofsky, to whom this case has been referred for general supervision of pretrial proceedings and to issue a report and recommendation on any dispositive motion, issued a Report and Recommendation on Plaintiff's motion to amend, recommending that the motion be denied. Dkt. 43.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge” in a Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). If a party submits a timely objection to any part of the magistrate judge's disposition, the district court will conduct a *de novo* review of the contested section. Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no objections are made, the district court reviews the Report and Recommendation for clear error. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

The Report and Recommendation, citing both Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1), advised the parties that they had fourteen days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. Dkt. 43 at 20. The docket reflects that the Report and Recommendation was electronically entered on November 19, 2024, and was served on Plaintiff via mail on November 20, 2024. No objections have been filed and the time for making any objections has passed. The parties have therefore waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga Cnty.*, 517 F.3d 601 (2d Cir. 2008).

Notwithstanding this waiver, the undersigned has conducted a *de novo* review of the Report and Recommendation, and finds it to be well reasoned and its conclusions well founded. Accordingly, the Court adopts the Report and Recommendation in its entirety. Plaintiff's motion for leave to amend, Dkt. 30, is denied. This denial is without prejudice to Plaintiff filing a renewed motion for leave to amend within ten days from the date of this Order. Plaintiff should only file a renewed motion if she can remedy the deficiencies identified in Judge Tarnofsky's Report and Recommendation. If Plaintiff does not file a renewed motion by her deadline to do so, Plaintiff shall file any opposition to the motion to dismiss by December 27, 2024. In her opposition, Plaintiff should address why the grounds for dismissal raised by Defendant Walmart-Stores, Inc. and the futility analysis in the Report and Recommendation do not require dismissal of her claims as to all Defendants in this case. *See Vekaria v. Mthree Corp. Consulting, Ltd.*, No. 22 Civ. 3197 (JPC), 2024 WL 4337542, at *18 (S.D.N.Y. Sept. 27, 2024) (putting a plaintiff on notice of the Court's intent to *sua sponte* dismiss the claims against non-moving defendants where "the grounds for dismissal . . . appear to apply equally" to all defendants).

The Clerk of Court is respectfully directed the mail a copy of this Order to *pro se* Plaintiff
Stephanie M. Reveron.

SO ORDERED.

Dated: December 10, 2024
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge